IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7344 OF 2006

Brihanmumbai Mahanagarpalika] .. Petitioners (Ori.Def.No.1.)

Versus

1. Sudhirkumar S. Mundra & 3 ors.] .. Respondents (Ori.Pltff. and Def.Nos.2 to 5)

Mr. A.J. Bhor i/b S.H. Ujjainwala & R.A. Malandkar for the petitioners.

CORAM: S.B. MHASE, J.

DATED: 15TH JUNE, 2007

P.C. :

. Learned counsel for the petitioners is absent.

2. The order dated 16th August, 2006, is challenged by filing this Writ Petition. It is a Petition by original defendant No.1 in a Suit bearing No.5187 of 1998. The petitioners desired to file a Written Statement. However, that was not accepted by the City Civil Court. It is to be noted that as per the order dated 11th August, 2004, the defendants were precluded from filing Written Statement. Later on, by the order dated 22nd September, 2004, defendant No.2 to 5 were allowed to file their Written Statement by the

Court below. However, at that time the petitioners did not file the Written Statement. The evidence of the plaintiff was over and thereafter, application has been moved for the purposes of filing Written Statement. The petitioners did not move any delay condonation application nor has brought on record any special circumstances which precluded them from filing Written Statement and, therefore, the Written Statement was not accepted. All these facts and the reasons stated by the trial Court are justified in the facts and circumstances of the case and, therefore, there is no merit in the Petition.

2. At this stage, the learned counsel for the petitioner appeared and submitted that the Suit is disposed of and, therefore, this Writ Petition has been rendered infructuous. The statement made by the learned counsel for the petitioners is accepted and the Petition stands rejected on both the grounds viz. there is nothing on merit and that it has become infructuous.

Sd/-
[S.B. MHASE, J.]